**UNITED STATES BANKRUPTCY COURT**
**MIDDLE DISTRICT OF FLORIDA**
**TAMPA DIVISION**

**IN RE:**

**SCOTT ANDREW VOGEL, and** **Case No. 8:15-bk-06469-KRM**
**KRISTINE JUNE VOGEL,**

**Debtors. /**

**TRACI K. STEVENSON, TRUSTEE,** **Adv. Pro. 8:16-ap-_____-KRM**

**Plaintiff,**

**vs.**

**THOMAS VOGEL,**

**Defendant./**

## Complaint

Plaintiff, TRACI K. STEVENSON, TRUSTEE, as trustee of the estate of the above-named Debtors, sues Defendant, THOMAS VOGEL, and says:

1. On June 23, 2015, Debtor filed his petition for Chapter 7 bankruptcy.

2. Plaintiff was appointed by the Court to act as Chapter 7 Trustee of the estate, and in so acting has authority to, and does, bring this action.

3. Debtor's Chapter 7 case is pending in the United States Bankruptcy Court in the Middle District of Florida, Tampa Division, Case 8:15-bk-06469-KRM, Chap. 7.

4. This proceeding is a "core proceeding" pursuant to 11 U.S.C. §157, over which this court has jurisdiction pursuant to 28 U.S.C. §1334 & 28 U.S.C. §157.

5. On the date of filing of this bankruptcy proceeding, Defendant was the record title owner of a fifty (50%) percent interest in the following described real property, located at 1104 Tiburon Dr., Seffner, FL 33584 (hereinafter the "Property"):

> Lot 41, Block 7, THE GROVES-NORTH, according to the map or plat thereof, recorded in Plat Book 46, Page 66, of the Public Records of Hillsborough County, Florida.

Parcel ID #: 064210.7478

PIN#: U-02-29-20-274-000007-00041.0

6. Defendant is the co-owner of the Property, owning a fifty (50%) percent interest.

7. The property is free and clear of liens, and unencumbered by any mortgage.

8. Pursuant to 11 U.S.C. §541, the bankruptcy estate became the owner of the interest of Debtor in the Property on the date of filing.

9. Pursuant to 11 U.S.C. §544, Trustee has certain specified rights as to the Property, as set forth in that section.

10. Venue is proper in this Court pursuant to 28 U.S.C. §§1408 and 1409.

11. To the extent that this action, or any portion thereof, is not a core proceeding, Plaintiff consents to the entry of final orders or judgment by the bankruptcy judge.

12. Partition in kind of the Property between the estate and THOMAS VOGEL is impracticable.

13. Because of the co-ownership which clouds the estate's title to the Property, sale of the estate's record interest in the Property would realize significantly less for the estate than sale of the Property free of the interests of Defendant.

14. The benefit to the estate of a sale of the Property free of the interests of Defendant outweighs the detriment, if any, to Defendant.

15. The Property is not used in the production, transmission, or distribution, for sale, of electric energy or of natural or synthetic gas for heat, light, or power.

16. Pursuant to 11 U.S.C. §363, Trustee is in need of an order of this court allowing her to sell the Property, pay costs of closing, retain fifty (50%) of the net proceeds, and pay to Defendant the remaining fifty (50%) of the net proceeds.

17. The value of the property to be sold is believed in excess of the amount of any liens which encumber the property. Specifically, Trustee is informed and does believe that the Property is worth in excess of $88,518.00, and is subject to no known mortgage(s).

WHEREFORE, Trustee prays this honorable court will enter its order pursuant to 11 U.S.C. §363 (A) allowing and authorizing Trustee to sell the Property free and clear of any claims of Defendant, (B) determining the interests, if any, of Defendant, ( C) allowing the property to be sold, with the liens of record and the costs of sale to be paid at closing, and (D) allowing Trustee to retain the estate's portion of the proceeds, and (E) directing the closing agent to deliver to Defendant, THOMAS VOGEL, his respective portion of the net proceeds.

Dated: January 11, 2017.

*/s/ David B. McEwen, Esq.*
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